

Summary of April 19 Draft Medical Cannabis Regulations

A further revised draft of the proposed medical Cannabis regulations has been developed by the Executive Committee of the Medical Marijuana Commission, with review and input from the Policy Committee, the Assistant Attorney General, the policy staff of the Secretary of Health and Mental Hygiene, and the Maryland Board of Physicians. This summary briefly outlines the highlights of changes in this draft proposal, dated April 19, 2015, from the March 20 proposal.

House Bill 490 was passed in the Maryland General Assembly by a wide margin on April 13, 2015 and is awaiting the Governor's signature. The Commission and staff are pleased to provide a summary of the draft regulations that will establish a medical Cannabis program to meet the urgent need of thousands of Marylanders for safe and affordable medical Cannabis.

Definitions

Reflecting the statutory change regarding resident, the latest draft redefines a "Qualifying Patient" to mean an individual who lives in the State, or during that time that an individual is present in the State, is physically present in the State for the purpose of receiving medical care from a medical facility in the State.

General Regulations

The statute includes directives to the Commission to "actively seek to achieve racial, ethnic, and diversity" when licensing growers and dispensaries and to "encourage applicants who qualify as a minority business enterprise" to apply for a growers license. To carry out those directives, a new regulation, "Encouragement of Application," has been added which states the Commission's policy to broadly publicize the opportunity to apply and to seek the submissions of applications for licenses to grow, process and dispense medical Cannabis, as well as submission of applications to register patients, physicians and independent testing laboratories, from applicants who qualify as minority business enterprises.

Patients/ Caregivers

The new draft regulations add a requirement that a caregiver sign an attestation that the caregiver understands the restrictions on the use or redistribution of medical Cannabis.

Physicians

The new draft further requires that, in addition to the requirements that the Maryland physician's license to practice medicine is "active" and "in good standing," it is

“unrestricted,” and the physician will have to so attest in the application for registration with the Commission.

Physicians applying for permission to receive compensation from a grower, processor or dispensary will have to attest that receipt of such compensation will not violate the Maryland Medical Practice Act or patient referral laws codified in the Maryland Code with reference to physician compensation. The Commission’s grounds for denying an application to approve such compensation are clarified.

The Commission will have the authority to revoke a physician’s registration, as detailed in the Discipline and Enforcement chapter of the regulations, and report any instance of fraud or conduct that threatens public health by a certifying physician to the Maryland Board of Physicians. The new regulations describe the grounds and clarify the procedure to deny or revoke a physician registration.

Growers

The grower application review regulation reorganizes and clarifies the nature of the application review.

A new regulation requires the licensed growers to periodically report “on the minority owners and employees of the grower,” as required by the statute.

In the Medical Cannabis Growing Controls chapter, the Commission has revised the section governing the application of pesticides to be consistent with other State laws and regulations.

The General Assembly has rewritten the provisions regarding licensed grower distribution and the language regarding “satellite facility.” The new draft revises this in a chapter called ‘Licensed Grower Dispensary Facility’ to make clear that a grower may operate a single facility to dispense medical Cannabis, and that it need not have any restriction on where it is located, and that the grower must obtain a separate license to operate that facility as a dispensary.

Independent Testing Laboratories

The new draft regulations require that the Independent Testing Laboratory provide a copy of the application for employment completed by each employee with the registration to the Commission. The new draft eliminates the requirements for documentation of submission of fingerprints of employees to the Central Repository, as well as the requirement that the employee’s criminal history record be forwarded to the Commission.

Licensed Processor

The processor application review regulation reorganizes and clarifies the nature of the application review.

Licensed Dispensaries

The dispensary application review regulation reorganizes and clarifies the application review.

An entity may submit an application for a dispensary license in multiple senatorial districts and submit a phase 1 application fee for each application. An entity that is top ranked in more than one senatorial district must choose one senatorial district in which to proceed to phase 2 of the application.

Dispensary Agent Training

Licensees will provide training of dispensary agents in the science and use of medical cannabis, including education at least every 12 months on the most recent data.

Dispensing Medical Cannabis

The new draft regulation requires that the dispensary agent enter the lot and batch number of the product dispensed and the weight of the usable Cannabis and the weight of *Δ9-Tetrahydrocannabinol (THC)* in the dispensary inventory control and the Commission's data network.

Discipline and Enforcement

The new draft clarifies the notice and procedural elements of each regulation in this chapter.

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